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C O N F I D E N T I A L CARACAS 001133

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NSC FOR TSHANNON AND CBARTON
USCINSO ALSO FOR POLAD
STATE PASS USAID FOR DCHA/OTI

E.O. 12958: DECL: 03/30/2014
TAGS: [PGOV](#) [PHUM](#) [KDEM](#) [VE](#)
SUBJECT: ELECTORAL CHAMBER REAFFIRMS ITS JURISDICTION

REF: A. CARACAS 01080

[1B.](#) CARACAS 00923 AND PREVIOUS

Classified By: Political Counselor Abelardo A. Arias for Reason 1.4(d)

Summary:

[¶1.](#) (C) The Electoral Chamber of Venezuela's Supreme Court (TSJ) March 29 confirmed its jurisdiction in matters concerning the National Electoral Council (CNE) and urged the TSJ en banc to decide the jurisdictional dispute between the

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court's Electoral and Constitutional chambers (reftels). Citing the continuing dispute, pro-GoV CNE Director Jorge Rodriguez said March 30 that the CNE will delay its announcement regarding an appeals process (reparo), but will announce final figures for signatures soon. The Electoral Chamber also exhorted CNE, the opposition and the GoV to find a political solution. In the end, it is perhaps the most realistic hope for scheduling a presidential referendum. End summary.

Electoral Chamber Says It's Good Enough

[¶2.](#) (U) The Electoral Chamber of Venezuela's Supreme Court (TSJ) batted the ball back March 29 when it confirmed its jurisdiction in matters concerning the National Electoral Council (CNE) and suggested that the TSJ should meet en banc to decide the growing dispute between the court's Electoral and Constitutional chambers. The statement is the most recent salvo in a series of competing pronouncements coming from the rival court chambers since March 15, when the Electoral Chamber first instructed the CNE to include over 870,000 signatures in the count towards a presidential referendum (reftels). The TSJ Constitutional Chamber had issued a decision March 23 purporting to nullify the Electoral Chamber's March 15 decision (reftel B).

Statement Asks Court and Parties to Settle the Matter

[¶3.](#) (U) The Electoral Chamber's March 29 statement rebutted point-by-point the Constitutional Chamber's recent pronouncement, arguing that the Electoral Chamber was not a subordinate tribunal as the Constitutional Chamber's March 23 ruling suggested. The Electoral Chamber also referred to Article 297 of the Venezuela constitution, which assigns the Electoral Chamber purview over issues regarding the CNE. The Electoral Chamber also urged the entire TSJ to meet en banc to settle the growing "dispute on court authority." In addition, the Electoral Chamber called on the litigants in the subject case, the CNE, the opposition and the GoV, to craft an agreement on the appeals process "in the spirit of conciliation" to avoid further delays in the courts.

CNE GoV Rep: I Told You This Would Hurt

[¶4.](#) (U) Pro-GoV CNE Director Jorge Rodriguez said March 30 that, in response to the Electoral Chamber announcement, the CNE will delay its decision on an appeals process (reparo). Rodriguez said the CNE had planned to issue final signature figures for the presidential recall March 30, but he will delay the announcement because the TSJ Electoral Chamber said the CNE should speak further with the opposition. Rodriguez reiterated that while the CNE will only comply with TSJ decisions from Constitutional Chamber, he said the advice of the Electoral Chamber was "very prudent" and the CNE has therefore decided to incorporate all parties-- including GoV and opposition representatives-- in the discussion to design an appeals process. Rodriguez also scolded the opposition for pursuing a court action, recalling he had warned that the judicial route would only slow the process. Rodriguez said

the CNE decision to delay the announcement of signature figures proves his warning was correct.

Carter Center Pleased with Electoral Chamber Announcement

15. (U) Carter Center representative Jennifer McCoy, visiting in Caracas March 30, said she was "pleased" with the content of the Electoral Chamber's March 29 statement, noting its call for continued discussions regarding an appeals process. McCoy said the Carter Center would await the CNE's announced results, which she expected would come out by April 2. She also praised her CNE colleagues, and called on all parties to guarantee the rights of all Venezuelan citizens.

Comment:

16. (C) The Electoral Chamber's announcement, as expected, reaffirmed its role as the opposition's champion in the TSJ contests against the pro-Gov Constitutional Chamber. Because pro-GoV TSJ president Ivan Rincon controls several key procedural mechanisms, it is unlikely that the case will be taken up by the full TSJ. Stalling the issue in the sticky web of TSJ procedures is effectively a Chavez victory. The Electoral Chamber's exhortation to the parties to find a political solution is, in the end, the most realistic hope for scheduling a presidential referendum.

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